

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

|                                  |   |                  |
|----------------------------------|---|------------------|
| <b>UNITED STATES OF AMERICA,</b> | ) |                  |
|                                  | ) |                  |
| <b>Plaintiff,</b>                | ) | <b>8:12CR352</b> |
|                                  | ) |                  |
| <b>V.</b>                        | ) |                  |
|                                  | ) |                  |
| <b>DANIEL APONTE,</b>            | ) | <b>ORDER</b>     |
|                                  | ) |                  |
| <b>Defendant.</b>                | ) |                  |
|                                  | ) |                  |

Defendant has filed a motion requesting an extension of time in which to file a motion under [28 U.S.C. § 2255](#). ([Filing 114](#).) Defendant's request for an extension of time will be denied because this Court does not have jurisdiction until a § 2255 motion has actually been filed, and Defendant's motion for extension of time cannot be liberally construed as a § 2255 motion. See [Green v. United States, 260 F.3d 78, 82-83 \(2d Cir. 2001\)](#).

Defendant's motion also requests that he be appointed counsel. However, because a § 2255 motion has yet to be filed, Defendant's request will be denied at this time as premature.

The Clerk of Court shall provide a copy of this order to Defendant.

**IT IS SO ORDERED.**

**DATED May 14, 2014.**

**BY THE COURT:**

**S/ F.A. Gossett  
United States Magistrate Judge**